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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,242	08/01/2001	Andrew Hodgkinson	BAI825390/01485	4038
24118	7590	12/20/2004	EXAMINER	
HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119			BURGE, LONDRA C	
			ART UNIT	PAPER NUMBER
			2178	

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/920,242

Applicant(s)

HODGKINSON, ANDREW

Examiner

Londra C Burge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-15-2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. This action is responsive to communications: Original Application filed 8/1/01 and IDS filed 11/15/2001 and preliminary amendment filed on 8/1/2001
2. Claims 1-15 are pending. Claims 1 and 10 are independent claims.

#### *Priority*

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15 are rejected under 35 U.S.C. 101 because:

The claimed invention is directed to non-statutory subject matter.

##### 1. Nonstatutory Subject Matter

(a) Functional Descriptive Material: "Data Structures" Representing Descriptive Material Per Se or Computer Programs Representing Computer Listings Per Se Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs

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claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element, which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions. Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as nonstatutory functional descriptive material.

#### ***Claim Rejections - 35 USC § 103***

**4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al. (herein after Allen) U.S. Patent No. 5,918,239 filed 1/21/1997 (provided by the applicant)**

**in view of Cordell et al. (herein after Cordell) U.S. Patent No. 5,778,372 filed 4/18/1996 (provided by the applicant).**

**In regard to independent claim 1,** Allen discloses *the capability of identifying and obtaining data for a web page in response to a user instruction and processing the received data to generate and display the web page on a display screen connected thereto and wherein when the web page has been selected* (Allen Abstract and Col 2 Lines 15-22)

Allen does not specifically disclose *the data is being received the reformatting of the displayed web page is controlled so as to occur only after a predetermined time has elapsed since the previous web page reformat and/or after a predetermined event has occurred.* However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time the insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 2,** Allen discloses *wherein the use of the data processor is controlled by allowing the reformatting of the displayed web page to be stopped from occurring as the data is received* (Allen Col 2 Lines 15-22)

**In regard to dependent claim 3,** Allen does not specifically disclose *wherein the facility prevents the reformatting of the displayed page until a prefixed time interval has elapsed after the previous display page reformat.* However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the

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web page during a certain elapsed time the insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 4**, Allen discloses *wherein when the first portion of data is received for a newly selected display page a reformat is carried out immediately to give the user the earliest possible indication of progress.* (Allen Abstract and Col 2 Lines 9-14)

**In regard to dependent claim 5**, Allen does not specifically disclose *wherein when an event occurs in the reception of data that would conventionally cause an immediate reformat of the web page the facility notes the highest y-coordinate point or level in the displayed page that would be affected by the reformat and commences the time interval.* However, Cordell mentions a similar process (Cordell Col 13 Lines 1-58). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of determining the highest level of the displayed page affected to ensure the correct format of the page.

**In regard to dependent claim 6**, Allen does not specifically disclose *wherein page display reformatting is prevented from occurring until a predetermined time interval has elapsed.* However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time the insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 7**, Allen does not specifically disclose *wherein a reformatting of the page display can occur during the time interval if all or a predefined proportion of data for the page is received during the time interval.* However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would

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have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time to insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 8,** Allen does not specifically disclose *wherein sufficient data is deemed to have been received when data which would allow changes to the web page to be achieved up to the previously noted highest y-coordinate point or level has been received.* However, Cordell mentions a similar process (Cordell Col 13 Lines 1-58). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of determining the highest level of the displayed page affected to ensure the correct format of the page.

**In regard to dependent claim 9,** Allen discloses *the entire data fetch is complete as required, the reformatting of the displayed page can occur and the parts of the page which need to be changed in response to the newly received data are reformatted.* (Allen Col 4 Lines 20-35)

Allen does not specifically disclose *wherein when the time interval has elapsed.* However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time to insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 10,** Allen discloses *a deferring system which prevents the web browser from reformatting pages during the reception of data each time the display page layout needs to change in response to a user selection wherein the web browser reformats*

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*according to ...or when a predetermined amount of the data for the new page has been received.*

(Allen Abstract and Col 2 Lines 15-22)

Allen does not specifically disclose *a predesignated time interval*. However, Cordell mentions the web page event occurring during a certain time period (Cordell Col '13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time to insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 11**, Allen does not specifically disclose *a management system wherein when a new data event occurs that would normally cause an immediate page reformat, the browser takes note of the highest point in the page that would be affected and starts a time and delays reformat until a predesignated time elapses*. However, Cordell mentions a similar process (Cordell Col 13 Lines 1-58). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of determining the highest level of the displayed page affected to ensure the correct format of the page.

**In regard to dependent claim 12**, Allen does not specifically disclose *wherein the reformat is delayed for the duration of a predesignated time period from the occurrence of a user selection*. However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time to insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 13**, Allen discloses *wherein the reformat is delayed until all data for the entire page is received*. (Allen Col 2 Lines 15-22)



**In regard to dependent claim 14**, Allen does not specifically disclose *wherein upon a user selection, the processor performs the data reception function only for a predesignated period of time*. However, Cordell mentions the web page event occurring during a certain time period (Cordell Col 13 Lines 24-40). It would have been obvious to one of ordinary skill in the art to apply Cordell to Allen, providing Allen the benefit of displaying the web page during a certain elapsed time to insure a correct and transformation as well as quick transformation.

**In regard to dependent claim 15**, Allen discloses a management system wherein the system is incorporated in a processor of a broadcast data receiver, which allows Internet access. (Allen Abstract i.e. it is known that a web browser is displayed through the Internet)

### ***Conclusion***

**6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.**

Fields et al.	U.S. Patent No. 6,128,655	issued	10/3/2000
Beraneck et al.	U.S. Patent No. 6,226,642 B1	issued	5/1/2001
Serebrennikov	U.S. Patent No. 2002/0004803 A1	issued	1/10/2002
Kanevsky et al.	U.S. Patent No. 6,665,642 B2	issued	12/15/2003

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Londra C Burge whose telephone number is (571) 272-4122.

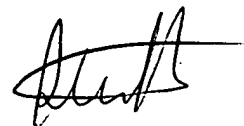
The examiner can normally be reached on 8:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Londra C Burge  
11/29/04



**STEPHEN S. HONG**  
**PRIMARY EXAMINER**